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APPLICATION NO.	FI	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
09/938,997	(	08/27/2001	Daniel B. Lodge	5108-6	3441		
34678	7590	02/03/2004		EXAMINER			
NORMAN		ER, P.C. HIGHWAY		EVANS, GE	EVANS, GEOFFREY S		
CHERRY H				ART UNIT	PAPER NUMBER		
	,			1725			

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

J.	Applicati	on No.	Applicant(s)	
	09/938,9	97	LODGE, DANIEL B.	
Office Action Summary	Examine	r	Art Unit	
·	Geoffrey	S Evans	1725	
The MAILING DATE of this communication Period for Reply	appears on th	e cover sheet with the c	orrespondence addres	is
A SHORTENED STATUTORY PERIOD FOR RE THE MAILING DATE OF THIS COMMUNICATIO  - Extensions of time may be available under the provisions of 37 CFF after SIX (6) MONTHS from the mailing date of this communication  - If the period for reply specified above is less than thirty (30) days, a  - If NO period for reply is specified above, the maximum statutory period for reply within the set or extended period for reply will, by st  - Any reply received by the Office later than three months after the mearned patent term adjustment. See 37 CFR 1.704(b).  Status	DN. R 1.136(a). In no evol. a reply within the stated will apply and within the apply and within the apply and within the apply and within the apply and within apply apply and within apply apply and within apply apply and within apply apply apply apply apply and within apply	rent, however, may a reply be tin tutory minimum of thirty (30) day vill expire SIX (6) MONTHS from blication to become ABANDONE	nely filed s will be considered timely. the mailing date of this commu D (35 U.S.C. § 133).	inication.
1) Responsive to communication(s) filed on 2	9 November 2	2003.		
	his action is n			•
3) Since this application is in condition for allo closed in accordance with the practice und	owance except	t for formal matters, pro		rits is
Disposition of Claims	-			
4)⊠ Claim(s) <u>1 and 2</u> is/are pending in the appli	ication.			
4a) Of the above claim(s) <u>1</u> is/are withdrawi	n from conside	eration.		
5) Claim(s) is/are allowed.				
6)⊠ Claim(s) <u>2</u> is/are rejected.	•		•	
7) Claim(s) is/are objected to.				
8) Claim(s) are subject to restriction an	nd/or election i	equirement.		
Application Papers				
9)☐ The specification is objected to by the Exam	niner.			
10) The drawing(s) filed on is/are: a)	accepted or b	objected to by the f	Examiner.	
Applicant may not request that any objection to	the drawing(s)	be held in abeyance. See	e 37 CFR 1.85(a).	
Replacement drawing sheet(s) including the cor	· ·			
11)☐ The oath or declaration is objected to by the	e Examiner. N	ote the attached Office	Action or form PTO-1	52.
Priority under 35 U.S.C. §§ 119 and 120				
12) Acknowledgment is made of a claim for form a) All b) Some * c) None of:  1. Certified copies of the priority docum 2. Certified copies of the priority docum 3. Copies of the certified copies of the priority docum application from the International But * See the attached detailed Office action for a  13) Acknowledgment is made of a claim for dom since a specific reference was included in the 37 CFR 1.78.	nents have been the have been the have been the priority documned in the certical priority under the settic priority under	en received. en received in Applicati ents have been receive le 17.2(a)). ified copies not receive inder 35 U.S.C. § 119(e	on No ed in this National Stag ed. e) (to a provisional app	plication)
a) 🗌 The translation of the foreign language		•		
14) Acknowledgment is made of a claim for dom reference was included in the first sentence of				
Attachment(s)		•		
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(			(PTO-413) Paper No(s) atent Application (PTO-152	

U.S. Patent and Trademark Office PTOL-326 (Rev. 11-03)

Application/Control Number: 09/938,997 Page 2

Art Unit: 1725

## **DETAILED ACTION**

1. Claim 1 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 20031229.

- 2. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1725.
- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arfsten et al. in U.S. Patent No. 5,409,742 A in view of Wijnschenk et al. in U.S. Patent No. 6,270,728 B1 and Zaglio in EP 404,732 and Sato in U.S. Patent No. 6,681,055 B1. Arfsten et al. teaches laser marking glass articles after applying a layer of ceramic paint (e.g. see column 1,line 10). Arfsten et al. does not disclose that laser etching a data matrix and Arfsten et al. does not disclose marking the bottom end of a glass vial. Wijnschenk et al. teaches marking the bottom of a test tube, i.e. vial so that it is machine-readable. Zaglio teaches that test tubes (i.e. vials) can be made of glass. Sato teaches laser marking a data matrix code (see column 2,lines 44-50) and that this method is effective for forming a small two-dimensional code whose side is 1 mm long

Application/Control Number: 09/938,997

Art Unit: 1725

(see column 9,lines 10-13). It would have been obvious to adapt Arfsten et al. in view of Wijnschenk et al., Zaglio and Sato to laser mark the bottom of glass vials with a data matrix code so that only a small area of the vial is required for a machine-readable code.

- 5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider in US 2002/0102362 A1 in view of Sato in U.S. Patent No. 6,681,055 B1 and Mathus et al. in U.S. Patent No. 6,372,293 B1. Schneider in US 2002/0102362 A1 discloses making laboratory containers such as a glass vial by applying a ceramic based paint (see paragraph 15), and etching the label area with a laser. Schneider however discloses using a bar code instead of a data matrix code. Sato teaches laser marking a data matrix code (see column 2,lines 44-50) instead of a bar code because it has a higher data amount per unit area (see column 1,lines 19-21). Mathus et al. teaches placing a code on the bottom of a test tube. It would have been obvious to adapt Schneider in view of Sato to increase the amount of data in the code per unit area (and thus allow a smaller area to be used for the code) and further to adapt Schneider in view of Mathus et al. to place it at the bottom end so that it is easily machine readable.
- 6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shinoda in U.S. Patent No. 6,227,394 discloses laser marking a two-dimensional matrix code on a glass bulb for a cathode ray tube.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey S Evans whose telephone number is (571)-

Application/Control Number: 09/938,997

Art Unit: 1725

Page 4

272-1174. The examiner can normally be reached on Mon-Fri 6:30AM to 4:00 PM, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571)-272-1171. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)-

272-1300.

**GSE** 

Geoffrey S. Evans Primary Examiner

Group 1700